



Senate

General Assembly

January Session, 2011

File No. 459

Senate Bill No. 1142

Senate, April 7, 2011

The Committee on Energy and Technology reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING POWER PLANT SAFETY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) The Department of
2 Public Utility Control shall be responsible for the coordination of any
3 and all safety programs of the state that relate to the safe operation of
4 power plants in this state. Any state agency responsible for a program
5 that relates to the safe operation of any power plant in this state shall
6 coordinate such program with the department.

7 Sec. 2. (NEW) (*Effective October 1, 2011*) Not less than once per
8 calendar quarter, the Connecticut Siting Council and the Departments
9 of Public Safety and Emergency Management and Homeland Security
10 shall conduct a meeting to discuss and develop proposed resolutions
11 for any known or potential safety issue at any power plant in this state.
12 The council and said departments shall submit any such proposed
13 resolutions to the Governor and any member of the General Assembly
14 that represents the town in which any such power plant is located.

15 Sec. 3. Subsections (a) and (b) of section 16-50p of the general
16 statutes are repealed and the following is substituted in lieu thereof
17 (*Effective October 1, 2011*):

18 (a) (1) In a certification proceeding, the council shall render a
19 decision upon the record either granting or denying the application as
20 filed, or granting it upon such terms, conditions, limitations or
21 modifications of the construction or operation of the facility as the
22 council may deem appropriate.

23 (2) The council's decision shall be rendered in accordance with the
24 following:

25 (A) Not later than twelve months after the deadline for filing an
26 application following the request for proposal process for a facility
27 described in subdivision (1) or (2) of subsection (a) of section 16-50i or
28 subdivision (4) of said subsection (a) if the application was
29 incorporated in an application concerning a facility described in
30 subdivision (1) of said subsection (a);

31 (B) Not later than one hundred eighty days after the deadline for
32 filing an application following the request for proposal process for a
33 facility described in subdivision (4) of [said] subsection (a) of section
34 16-50i, and an application concerning a facility described in
35 subdivision (3) of said subsection (a), provided such time periods may
36 be extended by the council by not more than one hundred eighty days
37 with the consent of the applicant; and

38 (C) Not later than one hundred eighty days after the filing of an
39 application for a facility described in subdivision (5) or (6) of [said]
40 subsection (a) of section 16-50i, provided such time period may be
41 extended by the council by not more than one hundred eighty days
42 with the consent of the applicant.

43 (3) The council shall file, with its order, an opinion stating in full its
44 reasons for the decision. The council shall not grant a certificate, either
45 as proposed or as modified by the council, unless it shall find and

46 determine:

47 (A) Except as provided in subsection (c) of this section, a public
48 need for the facility and the basis of the need;

49 (B) The nature of the probable environmental impact of the facility
50 alone and cumulatively with other existing facilities, including a
51 specification of every significant adverse effect, including, but not
52 limited to, electromagnetic fields that, whether alone or cumulatively
53 with other effects, on, and conflict with the policies of the state
54 concerning, the natural environment, ecological balance, public health
55 and safety, scenic, historic and recreational values, forests and parks,
56 air and water purity and fish, aquaculture and wildlife;

57 (C) Why the adverse effects or conflicts referred to in subparagraph
58 (B) of this subdivision are not sufficient reason to deny the application;

59 (D) In the case of an electric transmission line, (i) what part, if any,
60 of the facility shall be located overhead, (ii) that the facility conforms to
61 a long-range plan for expansion of the electric power grid of the
62 electric systems serving the state and interconnected utility systems
63 and will serve the interests of electric system economy and reliability,
64 and (iii) that the overhead portions, if any, of the facility are cost
65 effective and the most appropriate alternative based on a life-cycle cost
66 analysis of the facility and underground alternatives to such facility,
67 are consistent with the purposes of this chapter, with such regulations
68 or standards as the council may adopt pursuant to section 16-50t,
69 including, but limited to, the council's best management practices for
70 electric and magnetic fields for electric transmission lines and with the
71 Federal Power Commission "Guidelines for the Protection of Natural
72 Historic Scenic and Recreational Values in the Design and Location of
73 Rights-of-Way and Transmission Facilities" or any successor guidelines
74 and any other applicable federal guidelines and are to be contained
75 within an area that provides a buffer zone that protects the public
76 health and safety, as determined by the council. In establishing such
77 buffer zone, the council shall take into consideration, among other
78 things, residential areas, private or public schools, licensed child day

79 care facilities, licensed youth camps or public playgrounds adjacent to
80 the proposed route of the overhead portions and the level of the
81 voltage of the overhead portions and any existing overhead
82 transmission lines on the proposed route. At a minimum, the existing
83 right-of-way shall serve as the buffer zone;

84 (E) In the case of an electric or fuel transmission line, that the
85 location of the line will not pose an undue hazard to persons or
86 property along the area traversed by the line;

87 (F) In the case of an application that was heard under a consolidated
88 hearing process with other applications that were common to a request
89 for proposal, that the facility proposed in the subject application
90 represents the most appropriate alternative among such applications
91 based on the findings and determinations pursuant to this subsection;
92 [and]

93 (G) In the case of a facility described in subdivision (6) of subsection
94 (a) of section 16-50i that is proposed to be installed on land under
95 agricultural restriction, as provided in section 22-26cc, that the facility
96 will not result in a material decrease of acreage and productivity of the
97 arable land; and

98 (H) In the case of any facility described in subdivision (3) of
99 subsection (a) of section 16-50i that is proposed to use natural gas, that
100 the facility will not pose an undue hazard to persons or property in the
101 vicinity of the facility.

102 (b) (1) Prior to granting an applicant's certificate for a facility
103 described in subdivision (5) or (6) of section 16-50i, the council shall
104 examine, in addition to its consideration of subdivisions (1) to (5),
105 inclusive, of subsection (a) of this section: (A) The feasibility of
106 requiring an applicant to share an existing facility, as defined in
107 subsection (b) of section 16-50aa, within a technically derived search
108 area of the site of the proposed facility, provided such shared use is
109 technically, legally, environmentally and economically feasible and
110 meets public safety concerns, (B) whether such facility, if constructed,

111 may be shared with any public or private entity which provides
112 telecommunications or community antenna television service to the
113 public, provided such shared use is technically, legally,
114 environmentally and economically feasible at fair market rates, meets
115 public safety concerns, and the parties' interests have been considered,
116 and (C) whether the proposed facility would be located in an area of
117 the state which the council, in consultation with the Department of
118 Environmental Protection and any affected municipalities, finds to be a
119 relatively undisturbed area that possesses scenic quality of local,
120 regional or state-wide significance. The council may deny an
121 application for a certificate if it determines that (i) shared use under the
122 provisions of subparagraph (A) of this subdivision is feasible, (ii) the
123 applicant would not cooperate relative to the future shared use of the
124 proposed facility, or (iii) the proposed facility would substantially
125 affect the scenic quality of its location and no public safety concerns
126 require that the proposed facility be constructed in such a location.

127 (2) When issuing a certificate for a facility described in subdivision
128 (5) or (6) of subsection (a) of section 16-50i, the council may impose
129 such reasonable conditions as it deems necessary to promote
130 immediate and future shared use of such facilities and avoid the
131 unnecessary proliferation of such facilities in the state. The council
132 shall, prior to issuing a certificate, provide notice of the proposed
133 facility to the municipality in which the facility is to be located. Upon
134 motion of the council, written request by a public or private entity
135 which provides telecommunications or community antenna television
136 service to the public or upon written request by an interested party, the
137 council may conduct a preliminary investigation to determine whether
138 the holder of a certificate for such a facility is in compliance with the
139 certificate. Following its investigation, the council may initiate a
140 certificate review proceeding, which shall include a hearing, to
141 determine whether the holder of a certificate for such a facility is in
142 compliance with the certificate. In such proceeding, the council shall
143 render a decision and may issue orders which it deems necessary to
144 compel compliance with the certificate, which orders may include, but
145 not be limited to, revocation of the certificate. Such orders may be

146 enforced in accordance with the provisions of section 16-50u.

147 (3) When determining whether to issue a certificate for a facility
148 described in subdivision (3) of subsection (a) of section 16-50i, the
149 council may divide such certification process decision into two phases.
150 The first phase shall consist of a decision concerning the construction
151 of such facility and the second phase shall consist of a decision
152 concerning the operation of such facility. The council shall not issue a
153 certificate for the operation of any such facility at the conclusion of
154 such second phase unless the applicant demonstrates that such
155 facility's safety features will operate as designed and intended.

156 Sec. 4. Subsections (a) and (b) of section 16-50l of the general statutes
157 are repealed and the following is substituted in lieu thereof (*Effective*
158 *October 1, 2011*):

159 (a) (1) To initiate a certification proceeding, an applicant for a
160 certificate shall file with the council an application, in such form as the
161 council may prescribe, accompanied by a filing fee of not more than
162 twenty-five thousand dollars, which fee shall be established in
163 accordance with section 16-50t, and a municipal participation fee of
164 twenty-five thousand dollars to be deposited in the account
165 established pursuant to section 16-50bb, except that an application for
166 a facility described in subdivision (5) or (6) of subsection (a) of section
167 16-50i shall not pay such municipal participation fee. An application
168 shall contain such information as the applicant may consider relevant
169 and the council or any department or agency of the state exercising
170 environmental controls may by regulation require, including the
171 following information:

172 (A) In the case of facilities described in subdivisions (1), (2) and (4)
173 of subsection (a) of section 16-50i: (i) A description, including
174 estimated costs, of the proposed transmission line, substation or
175 switchyard, covering, where applicable underground cable sizes and
176 specifications, overhead tower design and appearance and heights, if
177 any, conductor sizes, and initial and ultimate voltages and capacities;
178 (ii) a statement and full explanation of why the proposed transmission

179 line, substation or switchyard is necessary and how the facility
180 conforms to a long-range plan for expansion of the electric power grid
181 serving the state and interconnected utility systems, that will serve the
182 public need for adequate, reliable and economic service; (iii) a map of
183 suitable scale of the proposed routing or site, showing details of the
184 rights-of-way or site in the vicinity of settled areas, parks, recreational
185 areas and scenic areas, residential areas, private or public schools,
186 licensed child day care facilities, licensed youth camps, and public
187 playgrounds and showing existing transmission lines within one mile
188 of the proposed route or site; (iv) justification for adoption of the route
189 or site selected, including comparison with alternative routes or sites
190 which are environmentally, technically and economically practical; (v)
191 a description of the effect of the proposed transmission line, substation
192 or switchyard on the environment, ecology, and scenic, historic and
193 recreational values; (vi) a justification for overhead portions, if any,
194 including life-cycle cost studies comparing overhead alternatives with
195 underground alternatives, and effects described in clause (v) of this
196 subparagraph of undergrounding; (vii) a schedule of dates showing
197 the proposed program of right-of-way or property acquisition,
198 construction, completion and operation; (viii) identification of each
199 federal, state, regional, district and municipal agency with which
200 proposed route or site reviews have been undertaken, including a copy
201 of each written agency position on such route or site; and (ix) an
202 assessment of the impact of any electromagnetic fields to be produced
203 by the proposed transmission line; and

204 (B) In the case of facilities described in subdivision (3) of subsection
205 (a) of section 16-50i: (i) A description of the proposed electric
206 generating or storage facility; (ii) a statement and full explanation of
207 why the proposed facility is necessary; (iii) a statement of loads and
208 resources as described in section 16-50r; (iv) safety and reliability
209 information, including planned provisions for emergency operations
210 and shutdowns and any information that the unit of the Department of
211 Public Utility Control responsible for gas pipeline safety determines is
212 necessary to evaluate the safety of any such facility that will use
213 natural gas; (v) estimated cost information, including plant costs, fuel

214 costs, plant service life and capacity factor, and total generating cost
215 per kilowatt-hour, both at the plant and related transmission, and
216 comparative costs of alternatives considered; (vi) a schedule showing
217 the program for design, material acquisition, construction and testing,
218 and operating dates; (vii) available site information, including maps
219 and description and present and proposed development, and
220 geological, scenic, ecological, seismic, biological, water supply,
221 population and load center data; (viii) justification for adoption of the
222 site selected, including comparison with alternative sites; (ix) design
223 information, including a description of facilities, plant efficiencies,
224 electrical connections to the system, and control systems; (x) a
225 description of provisions, including devices and operations, for
226 mitigation of the effect of the operation of the facility on air and water
227 quality, for waste disposal, and for noise abatement, and information
228 on other environmental aspects; and (xi) a listing of federal, state,
229 regional, district and municipal agencies from which approvals either
230 have been obtained or will be sought covering the proposed facility,
231 copies of approvals received and the planned schedule for obtaining
232 those approvals not yet received.

233 (2) On or after December 1, 2004, the filing of an application
234 pursuant to subdivision (1) of this subsection shall initiate the request
235 for proposal process, except for an application for a facility described
236 in subdivision (4), (5) or (6) of subsection (a) of section 16-50i and
237 except for a facility exempt from such requirement pursuant to
238 subsection (b) of section 16a-7c.

239 (3) Notwithstanding the provisions of this subsection, an entity that
240 has submitted a proposal pursuant to the request for proposal process
241 may initiate a certification proceeding by filing with the council an
242 application containing the information required pursuant to this
243 section, accompanied by a filing fee of not more than twenty-five
244 thousand dollars, which fee shall be established in accordance with
245 section 16-50t, and a municipal participation fee of twenty-five
246 thousand dollars to be deposited in the account established pursuant
247 to section 16-50bb, not later than thirty days after the Connecticut

248 Energy Advisory Board performs the evaluation process pursuant to
249 subsection (f) of section 16a-7c.

250 (b) Each application shall be accompanied by proof of service of a
251 copy of such application on: (1) Each municipality in which any
252 portion of such facility is to be located, both as primarily proposed and
253 in the alternative locations listed, and any adjoining municipality
254 having a boundary not more than two thousand five hundred feet
255 from such facility, which copy shall be served on the chief executive
256 officer of each such municipality and shall include notice of the date on
257 or about which the application is to be filed, and the zoning
258 commissions, planning commissions, planning and zoning
259 commissions, conservation commissions and inland wetlands agencies
260 of each such municipality, and the regional planning agencies which
261 encompass each such municipality; (2) the Attorney General; (3) each
262 member of the legislature in whose assembly or senate district the
263 facility or any alternative location listed in the application is to be
264 located; (4) any agency, department or instrumentality of the federal
265 government that has jurisdiction, whether concurrent with the state or
266 otherwise, over any matter that would be affected by such facility; (5)
267 each state department, agency and commission named in subsection
268 (h) of section 16-50j; [and] (6) such other state and municipal bodies as
269 the council may by regulation designate; and (7) the Departments of
270 Public Safety and Emergency Management and Homeland Security for
271 any application that proposes the construction of an electric generating
272 or storage facility that uses natural gas. A notice of such application
273 shall be given to the general public, in municipalities entitled to receive
274 notice under subdivision (1) of this subsection, by the publication of a
275 summary of such application and the date on or about which it will be
276 filed. Such notice shall be published under the regulations to be
277 promulgated by the council, in such form and in such newspapers as
278 will serve substantially to inform the public of such application and to
279 afford interested persons sufficient time to prepare for and to be heard
280 at the hearing prescribed in section 16-50m. Such notice shall be
281 published in not less than ten-point type. A notice of such an
282 application for a certificate for a facility described in subdivision (3),

283 (4), (5) or (6) of subsection (a) of section 16-50i shall also be sent, by
284 certified or registered mail, to each person appearing of record as an
285 owner of property which abuts the proposed primary or alternative
286 sites on which the facility would be located. Such notice shall be sent at
287 the same time that notice of such application is given to the general
288 public. Notice of an application for a certificate for a facility described
289 in subdivision (1) of subsection (a) of section 16-50i shall also be
290 provided to each electric company or electric distribution company
291 customer in the municipality where the facility is proposed to be
292 placed. Such notice shall (A) be provided on a separate enclosure with
293 each customer's monthly bill for one or more months, (B) be provided
294 by the electric company or electric distribution company not earlier
295 than sixty days prior to filing the application with the council, but not
296 later than the date that the application is filed with the council, and (C)
297 include: A brief description of the project, including its location
298 relative to the affected municipality and adjacent streets; a brief
299 technical description of the project including its proposed length,
300 voltage, and type and range of heights of support structures or
301 underground configuration; the reason for the project; the address and
302 a toll-free telephone number of the applicant by which additional
303 information about the project can be obtained; and a statement in print
304 no smaller than twenty-four-point type size stating "NOTICE OF
305 PROPOSED CONSTRUCTION OF A HIGH VOLTAGE ELECTRIC
306 TRANSMISSION LINE".

307 Sec. 5. (NEW) (*Effective October 1, 2011*) On or before February 1,
308 2012, the Connecticut Siting Council shall initiate a proceeding
309 concerning the expansion of safety related information that an
310 applicant for an electric generating or storage facility that uses natural
311 gas shall submit as part of any application submitted pursuant to
312 section 16-50l of the general statutes, as amended by this act. The
313 Departments of Public Safety and Emergency Management and
314 Homeland Security shall be parties to any such proceeding in addition
315 to any other state or local public safety or emergency response agency
316 or department that requests participation in such proceeding.

317 Sec. 6. Section 29-282 of the general statutes is repealed and the
 318 following is substituted in lieu thereof (*Effective October 1, 2011*):

319 This part shall not apply to structures, other than buildings and any
 320 facility described in subdivision (3) of subsection (a) of section 16-50i
 321 that uses natural gas, of public service companies subject to regulation
 322 by the Department of Public Utility Control.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	16-50p(a) and (b)
Sec. 4	<i>October 1, 2011</i>	16-50l(a) and (b)
Sec. 5	<i>October 1, 2011</i>	New section
Sec. 6	<i>October 1, 2011</i>	29-282

ET *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Public Utility Control, Dept.	CC&PUCF - Cost	500,000	500,000

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact: None

Explanation

The bill expands the Department of Public Utility Control's (DPUC) authority to include coordination of safe operation of power plants in Connecticut. In addition, the bill gives the DPUC jurisdiction over plant safety regulations at gas-fired power plants. As this is a new area for the DPUC, it is anticipated that up to four additional engineers and a consultant would be needed to conduct inspections. The total salary and fringe benefits for the four positions and funding for the consultant would be approximately \$500,000 in FY 12 and FY 13. These costs would be paid for by the Public Utility Control Fund.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 1142*****AN ACT CONCERNING POWER PLANT SAFETY.*****SUMMARY:**

This bill makes the Department of Public Utility Control (DPUC) responsible for coordinating state safety programs related to the safe operation of power plants in Connecticut. It requires any state agency responsible for such a program to coordinate its program with DPUC.

The bill also makes several changes to the process of obtaining the Siting Council certificate required to build a power plant, particularly if it uses natural gas. It (1) increases the number of state agencies that can participate in the certificate proceedings; (2) potentially expands the safety-related information that must be included with an application; (3) allows the council to split a proceeding for a power plant into two parts, separately addressing the plant's construction and operation; and (4) bars the council from approving a gas-fired power plant unless it finds that it will not jeopardize nearby residents and property.

In addition, the bill requires the Siting Council, the Department of Public Safety (DPS), and the Department of Emergency Management and Homeland Security (DEMHS) to meet quarterly to discuss and develop resolutions for any known or potential safety issues at any power plant in the state. The council and the departments must submit their proposed resolutions to the governor and the legislators who represent the town where the affected power plants are located.

The bill also subjects gas-fired power plants owned by utility companies to the state building code. The law generally prohibits utility companies from owning power plants and none of the existing plants are owned by the utilities.

EFFECTIVE DATE: October 1, 2011

SITING COUNCIL PROVISIONS

The law requires a Siting Council certificate to build a variety of energy and telecommunications facilities, including power plants. An applicant for a certificate must notify a wide range of entities that it is applying. In addition to these entities, the bill requires an applicant proposing to build a natural-gas-powered power plant or electric storage facility to notify DPS and DEMHS of its application. By law, entities entitled to this notice can participate as a party in the council's certification proceeding.

The bill also requires applicants for gas-fired power plants to include with their applications any information DPUC's gas pipeline safety unit deems necessary to evaluate the plant's safety. Further, it requires the Siting Council, by February 1, 2012, to conduct a proceeding to expand the safety-related information that an applicant for a natural-gas-powered power plant or electric storage facility must submit. It makes DPS and DEMHS parties to this proceeding and allows any other state or local public safety or emergency agency or department to participate.

When determining whether to issue a certificate for any power plant, the bill allows the Siting Council to divide the process decision into two phases. In the first phase, the council would issue a decision regarding the facility's construction. In the second phase, it would issue a decision regarding its operation. The bill bars the council from issuing a certificate for the plant's operation at the end of the second phase unless the applicant demonstrates that the plant's safety features will operate as designed and intended.

BACKGROUND

Related Bill

House Bill 6250, voted on favorably by the Energy and Technology Committee, requires the council to consider neighborhood concerns when approving power plants.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 21 Nay 0 (03/22/2011)